

General Information Letter: General guidance on claiming innocent spouse relief.

May 29, 2002

Dear:

This is in response to your email dated May 13, 2002 in which you state the following:

my wife is a former Chicago-area resident. She and her former husband lived in Illinois. She moved to another state in 1999, where she divorced him in 2000 and married me in 2001.

My wife's ex-husband failed to pay federal taxes for 1996-1998. After she divorced him and married me, I helped her obtain innocent spouse relief for all three years -- specifically, she was granted separation of liability. She was a stay-at-home mom caring for three kids -- including a child with a severe chronic illness -- and all the income was earned by her then- (now ex-) husband. The IRS' 2001 ruling freed her of all liability for her ex-husband's taxes, except for her 2000 refund, which already had been intercepted by the IRS. That interception is how we first learned of her ex-husband's tax liability and sought innocent spouse relief.

We suspect -- but do not know for sure -- that her ex-husband also may have failed to pay Illinois income taxes during part of their marriage. The ex-husband moved from Illinois to Florida near the end of 2000.

We are worried that her ex-husband's unpaid Illinois tax liability (if there is any) may come back to haunt her.

I looked at your web site and see the Title 86 Part 100 Section 100.5040 for your department regulations seem to indicate that Illinois grants innocent spouse relief to the same extent as the IRS.

So please inform me (a) how my wife may apply for innocent spouse relief to free her of any Illinois tax liability for taxes her ex-husband may have failed to pay during their marriage, (b) how my wife may find out if there is any Illinois tax liability listed for her and her ex-husband.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

To determine whether there are any outstanding Illinois tax liabilities, you must have both social security numbers of the individuals who filed jointly in the years at issue along with any business FEIN number (did the ex-husband own a business?). Once you have the information at hand, call the Illinois Department of Revenue at 1 800 732-8866 and they should be able to assist you. They may ask for a written request directed to the employee who may be handling the particular tax deficiencies.

Your wife may apply for innocent spouse relief by sending all pertinent documents to:

Illinois Department of Revenue
Problems Resolution Division
P.O. Box 19014
Springfield, IL 62794-9014

Pertinent documents include (1) a cover letter wherein your wife must specifically request innocent spouse relief for particular tax years, (2) copies of all tax returns (federal and Illinois) for all years at issue including W-2 forms and attached schedules, (3) all documents pertaining to the IRS innocent spouse request along with their final determinations, and (4) any other information you believe would be of assistance.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax